

Ordinance No: 15-77
Zoning Text Amendment No: 05-16
Concerning: Workforce Housing
Draft No. & Date: 9 – 6/16/06
Introduced: October 11, 2005
Public Hearing: 11/22/05; 7:30 p.m.
Adopted: July 11, 2006
Effective: December 1, 2006

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmembers Silverman, Floreen and Subin

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- defining the term “workforce housing unit”;
- requiring any residential development at or above a certain density, located in a metro station policy area, to include a certain percentage of workforce housing units; and
- generally providing standards for the development of workforce housing units.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-A-2	“DEFINITIONS AND INTERPRETATION”
Section 59-A-2.1	“Definitions”
DIVISION 59-A-6	“USES PERMITTED IN MORE THAN ONE CLASS OF ZONE”
Add a new section:	
<u>Section 59-A-6.18</u>	<u>“Workforce Housing”</u>
DIVISION 59-C-2	“RESIDENTIAL ZONES, MUTIPLE-FAMILY”
Section 59-C-2.4	“Development standards”
Section 59-C-2.418.	“Maximum Density of Development (Dwelling Units per Acre of Net Lot Area)”
Section 59-C-2.442	“General provisions”
DIVISION 59-C-4	“COMMERCIAL ZONES”
Section 59-C-4.357	“C-2 zone—purpose and development standards.”
DIVISION 59-C-6	“CENTRAL BUSINESS DISTRICT ZONES”
Section 59-C-6.215	“Method of development and approval procedures”
Section 59-C-6.23	“Development standards”
DIVISION 59-C-7	“PLANNED UNIT DEVELOPMENT ZONES”

Section 59-C-7.14 “Density of residential development
DIVISION 59-C-8 “TRANSIT STATION DEVELOPMENT AREA ZONES”
Section 59-C-8.4 “Development standards”
DIVISION 59-C-13 “TRANSIT ORIENTED, MIXED USE ZONE (TOMX)”
Section 59-C-13.215 “Methods of development and approval procedures”

*EXPLANATION: **Boldface** indicates a heading or a defined term.*

*Underlining indicates text that is added to existing laws
by the original text amendment.*

*[Single boldface brackets] indicate text that is deleted from
existing law by the original text amendment.*

*Double underlining indicates text that is added to the text
amendment by amendment.*

*[[Double boldface brackets]] indicate text that is deleted
from the text amendment by amendment.*

** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment No. 05-16 was introduced on October 11, 2005. The ZTA implements zoning standards for a new affordable housing program geared toward families with incomes near the area median. The program would apply in the higher density areas near metro stations. Under the ZTA, any subdivision of 35 or more dwelling units, in a zone that allows 40 or more dwelling units per acre, which is within a Metro Station Policy Area, would be required to provide not less than 10 percent of the market rate dwelling units as workforce housing. Workforce housing is housing available to families below 120 percent of the area median income level. In order for the workforce units to be constructed on site, the residential density or residential FAR of the applicable zone may be exceeded to accommodate workforce housing; however, the density increase could not exceed the maximum residential density of the zone by more than 10 percent.

The Montgomery County Planning Board in its report to the Council recommended that ZTA 05-16 be approved with amendments. In particular, the Board recommended that the Council consider requiring workforce housing to be within the base number of units, rather than in addition to the base units.

The County Council held a public hearing on November 22, 2005, to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held worksessions on December 12, 2005, March 26 and March 31, April 28 and June 12, 2006 to review the amendment. After careful review of the materials of record, the Committee recommended that ZTA 05-16 be approved with revisions. In addition to revisions recommended by Council staff, the Committee agreed to apply the same MPDU flexible development standards to the workforce housing program.

Revisions recommended by the Committee include: (1) clarifying that the number of workforce housing units that must be provided is based on the number of market rate units, but does not include the market rate units that result from the MPDU density bonus provision, or dwelling units excluded under Chapter 25B; (2) allowing any building height or residential density established in a master or sector plan to be exceeded to accommodate the number of workforce housing units constructed; (3) allowing green area standards to be reduced in certain zones to provide greater development flexibility in achieving workforce housing units; (4) exempting from the workforce housing requirements any development that results from an application for a local map amendment, development plan, project plan, preliminary plan, or subdivision plan filed by a certain date; and (5) establishing December 1, 2006 as the effective date of the ZTA.

The District Council reviewed Zoning Text Amendment No. 05-16 at a worksession held on July 11, 2006, and agreed with the recommendations of the Planning, Housing, and Economic Development Committee. It was the position of the Council that it is critical that residents of all

incomes have the opportunity to live near METRO stations. With the strengthening of the County's MPDU law, and the inclusion of a workforce housing requirement, it can be assured that up to one-quarter of the new apartments, condominiums, and townhouses in these smart growth areas will be affordable to residents of moderate incomes.

For these reasons and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 05-16 will be approved as amended.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec. 1. DIVISION 59-A-2 is amended as follows:**

2 **DIVISION 59-A-2. DEFINITIONS AND INTERPRETATION.**

3 **59-A-2.1. Definitions.**

4 * * *

5 **Metro[-]station policy area:** An area around a Metro station designated in the
6 [Annual] Growth Policy as appropriate for concentrating new job and housing
7 growth.

8 * * *

9 **Workforce housing unit:** A dwelling unit that is subject to rent limits or sales
10 controls under Chapter 25B. A [[W]] workforce [[H]] housing [[U]] unit is not a
11 **Moderately Priced Dwelling Unit or a Productivity Housing Unit.**

12 * * *

13 **Sec. 2. DIVISION 59-A-6 is amended as follows:**

14 **DIVISION 59-A-6. USES PERMITTED IN MORE THAN ONE CLASS OF**
15 **ZONE.**

16 * * *

17 **59-A-6.18. Workforce housing.**

18 **59-A-6.18.1. Generally.**

19 The workforce housing program complements the Moderately Priced Dwelling
20 Unit (MPDUs) Program, the Productivity Housing Program, and other County
21 programs designed to promote affordable housing. Under Chapter 25B, a
22 developer must build the number of workforce housing units required in any zone
23 under this Chapter.

24 **59-A-6.18.2. Requirements.**

25 [[Any development located in a zone with a maximum permitted residential
26 density at or above 40 dwelling units per acre and located in a Metro Station Policy
27 Area must include workforce housing units on site in an amount that is not less

than 10 percent of the total number of dwelling units in the development, not counting any MPDUs or resulting bonus density units. This workforce housing requirement applies to any preliminary plan of subdivision which proposes the development of 35 or more dwelling units, not counting any MPDU bonus density units.]]

(a) Any subdivision that would contain 35 or more market dwelling units, and that would be located in a zone with a maximum permitted residential density at or above 40 dwelling units per acre and in a Metro Station Policy Area, must include an amount of workforce housing units [[on site]] that is not less than 10 percent of the total number of proposed market dwelling units, not including any MPDUs or resulting bonus density units, or dwelling units excluded under Chapter 25B.

(b) A site plan is required under Division 59-D-3 for any project that includes a workforce housing unit.

(c) To allow the construction of all workforce housing units on site, the Planning Board must permit:

(1) any residential density or residential FAR limit of the applicable zone to be exceeded to the extent required for the number of workforce housing units that are constructed, but not by more than 10 percent;

(2) any residential density or residential FAR limit established in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum density and FAR of the zone, except as provided in paragraph (1), and

(3) any building height limit established in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum height of the zone. [[However, any increase in residential density or residential FAR must not exceed the maximum allowed in the applicable zone by more than 10 percent.]]

* * *

Sec. 3. DIVISION 59-C-2 is amended as follows:

DIVISION 59-C-2. RESIDENTIAL ZONES, MULTIPLE-FAMILY.

* * *

59-C-2.4. Development standards.

59-C-2.41. Standard method of development.

* * *

	R-30	R-20	R-10	R-H
59-C-2.418. Maximum Density of Development (Dwelling Units per Acre of Net Lot Area):	14.5	21.7	43.5*	*
* * *				
59-C-2.42. Special regulations for development including moderately priced dwelling units.				
The following optional standards may be used to achieve MPDUs, including any bonus density, provided under Chapter 25A on site. If the optional standards are used, the site plan approval procedures of Division 59-D-3 must be followed.				
* * *				
59-C-2.422. Coverage Limitations (Percentage of Area of Lot).				

-Green area may be reduced, to not less than:	35	35	35**	35**
* * *				

* Workforce [[H]] housing [[U]] units must be provided as required by Section 59-A-6.18 and Chapter 25B.

** If required to accommodate the construction of all workforce housing units on site.

* * *

59-C-2.44 Special regulations for optional method development using transferable development rights.

59-C-2.442. General provisions.

* * *

(d) A property developed with [the transfer of] development rights must [conform to the requirements of the] include Moderately Priced Dwelling Units (MPDUs) as required by Chapter 25A [of the Montgomery County Code requiring MPDU's] and [[W]] workforce [[H]] housing [[U]] units as required by Section 59-A-6.18 and Chapter 25B. The [applicability of Chapter 25A and the MPDU density increased provided by Section 59-C-2.42] number of MPDUs and any resulting bonus density must be calculated after the base density of a property has been increased by a transfer of development rights. The calculation of the number of workforce housing units must be based on the total number of market dwelling units in the development including any transfer of development rights, but not counting any MPDUs or resulting bonus density units. The MPDU density [increase provided by Section 59-C-2.42 may be made

without] bonus does not require the acquisition of additional development rights.

Sec. 4. Division 59-C-4 is amended as follows:

DIVISION 59-C-4. COMMERCIAL ZONES.

* * *

Sec. 59-C-4.357. C-2 zone-purpose and development standards.

Residential development in the C-2 zone [pursuant to] under Section 59-C-4.351(b) must include Moderately Priced Dwelling Units (MPDUs) [in accordance with the provision of] as required by Chapter 25A and [[W]] workforce [[H]] housing [[U]] units as required by Section 59-A-6.18 and Chapter 25B.

Sec. 5. DIVISION 59-C-6 is amended as follows:

DIVISION 59-C-6. CENTRAL BUSINESS DISTRICT ZONES.

* * *

59-C-6.2. Provisions of the CBD zones.

* * *

59-C-6.215. Method of development and approval procedures. Two methods of development are possible in each of these zones.

- (a) **Standard method of development.** The standard method requires compliance with a specific set of development standards and permits a range of uses and a density compatible with these standards. If residential uses are included in a development, Moderately Priced Dwelling units must be provided [in accordance with] as required by Chapter 25A and [[W]] workforce [[H]] housing [[U]] units must be provided as required by Section 59-A-6.18 and Chapter 25B. The maximum dwelling unit density or residential FAR may be increased in proportion to any MPDU density bonus provided on-site.

- (b) **Optional method.** Under the optional method greater densities may be permitted and there are fewer specific standards, but certain public facilities and amenities must be provided by the developer. The presence of these facilities and amenities is intended to make possible the creation of an environment capable of supporting the greater densities and intensities of development permitted. If residential uses are included in a development, Moderately Priced Dwelling units must be provided [in accordance with] as required by Chapter 25A and Workforce Housing Units must be provided as required by Section 59-A-6.18 and Chapter 25B. The maximum dwelling unit density or residential FAR may be increased in proportion to any MPDU density bonus provided on-site. The procedure for approval of an optional method project is specified in Division 59-D-2, and the procedure for approval of a site plan is specified in Division 59-D-3.

* * *

59-C-6.23. Development standards.

* * *

	CBD-0.5		CBD-R1 ²		CBD-1		CBD-2		CBD-3		CBD-R2	
	S ⁹	O	S	O	S ⁹	O	S	O	S ⁹	O	S	O
* * *												
59-C-6.233. Minimum Public Use Space (percent of net lot area):¹⁵	10	20	10	20 ¹⁶	10	20 ²⁰	10	20	10	20	10	20
--The required standard method public use space may be reduced to accommodate the construction of MPDUs, including any <u>resulting</u> bonus												

density units, and <u>workforce housing units</u> , provided on-site to: --The required optional method public use space may be reduced or eliminated to accommodate the construction of MPDUs, including any <u>resulting bonus density units, and workforce housing units</u> , provided on site, if an equivalent amount of public use space is provided off-site in the same CBD within a reasonable time.	5		5		5		5		5		5	
* * *												
59-C-6.235. Maximum Building Heights (in feet).												
* * *												
(b) Optional method of development.												
—Normally:		60		60		60		143		143		143
—If approved by the Planning Board in the process of site plan or combined urban renewal project plan approval as not adversely affecting surrounding properties, height may be increased												

to:		60 ¹²		143		90 ¹		200 ¹¹		200		200
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¹ [For projects using the optional method of development involving more than one lot under Section 59-C-6.2351, the Planning Board may approve height over 90 feet, but not more than 143. In order to approve height over 90 feet, the Planning Board must find that:

- (1) The additional height is specifically recommended for the property in the applicable sector plan or urban renewal plan;]

For projects using the optional method of development [[involving more than one lot under Section 59-C-6.2351]], the Planning Board may approve height over 90 feet, but not more than 143 feet, if [[:(i)]] the additional height is necessary for the project to comply with the workforce housing requirements of 59-A-6.18; however, the additional height must not be more than required for the number of workforce housing units that are constructed. [[, or (ii)]] For projects using the optional method of development involving more than one lot under Section 59-C-6.2351, the Planning Board may approve height over 90 feet, but not more than 143 feet, if the additional height is specifically recommended for the property in the applicable sector plan or urban renewal plan. In order to approve additional height for property where the additional height is specifically recommended for the property in a sector plan or urban renewal plan, the Planning Board must find that:

- [(2)](1) The additional height is consistent with the criteria and guidelines for the property as contained in the applicable sector plan or urban renewal plan;
- [(3)](2) Except as recommended in an urban renewal plan the portion of the property upon which the additional height is to be used is on

all sides abutted by or adjacent to property recommended in the applicable sector plan or urban renewal plan for classification in the CBD-0.5, CBD-1, CBD-2, or CBD-3 zones;

[(4)](3) The proposed development is compatible with the surrounding development, considering but not limited to the relationship of the building or buildings to the surrounding uses, the need to preserve light and air for the residents of the development and residents of surrounding properties, and any other factors relevant to the height of the building; and

[(5)](4) The proposed development will provide a substantial amount of consolidated public open space in excess of that which would be required if this process were not used. The public open space must be designated as public amenity space and be accessible to and usable by the public in accordance with the applicable sector or master plan, or urban renewal plan.

* * *

¹¹ [Under the optional method of development process, the Planning Board may approve height over 143 feet, but not more than 200 feet, In order to approve height over 143 feet, the Planning Board must find that:

(1) The additional height is specifically recommended for the property in the applicable sector plan or urban renewal plan or the property is within a revitalization area designated in the applicable sector plan and is located fully or partially within 800 feet of an entrance to a metro station;]

Under the optional method of development process, the Planning Board may approve height over 143 feet, but not more than 200 feet,

191 if: (i) the additional height is necessary for the project to comply with
192 the workforce housing requirements of Section 59-A-6.18; however,
193 the additional height must not be more than required for the number of
194 workforce housing units that are constructed, or (ii) the additional
195 height is specifically recommended for the property in the applicable
196 sector plan or urban renewal plan or the property is within a
197 revitalization area designated in the applicable sector plan and is
198 located fully or partially within 800 feet of an entrance to a metro
199 station. In order to approve additional height for property
200 recommended in a sector plan or urban renewal plan or within a
201 designated revitalization area, the Planning Board must find that:

202 ~~[(2)]~~(1) The additional height is consistent with the criteria and
203 guidelines for the property as contained in the applicable
204 sector plan or an urban renewal plan approved by the
205 County Council under Chapter 56, or in the case of a site
206 outside an urban renewal area, accomplishing the objectives
207 of incorporating residential development with commercial
208 development in a mixed use project in close proximity to a
209 metro station otherwise unobtainable due to site conditions,
210 proximity of adjacent non-residential buildings, or other
211 physical constraints which prevent the achievement of sector
212 plan objectives;

213 ~~[(3)]~~(2) The proposed development is compatible with the
214 surrounding development, considering but not limited to the
215 relationship of the building or buildings to the surrounding
216 uses, the need to preserve light and air for the residents of
217 the development and residents of surrounding properties,

and any other factors relevant to the height of the building;
and

[(4)](3) The proposed development will provide additional public facilities and amenities beyond what could otherwise have been provided if the excess height were not approved. Such facilities must be accessible to and usable by the public in accordance with the applicable sector or master plan or urban renewal plan.

12

The Planning Board may approve height over 60 feet, but not more than 90 feet, if: (i) the additional height is consistent with an applicable sector plan or an approved urban renewal plan; or (ii) the additional height is needed to comply with the workforce housing requirement of Section 59-A-6.18; however, the additional height must not be more than required for the number of workforce housing units that are constructed.

Sec. 6. DIVISION 59-C-7 is amended as follows:

DIVISION 59-C-7. PLANNED UNIT DEVELOPMENT ZONES.

* * *

59-C-7.1. P-D zone—Planned development zone.

* * *

59-C-7.14. Density of residential development.

* * *

(c) The density of development is based on the area shown for residential use on the master plan and must not exceed the density permitted by the density category granted. However, the maximum density [prescribed by Subsection] allowed under subsection (a) may be increased to accommodate the construction of Moderately Priced

* * *

261 Green area must be provided in amounts not less than indicated by the following
262 schedule:

263	Density				Green Area
264	<u>Category</u>				<u>(Percent of Gross Area)</u>
265					
266		*	*	*	
267	Medium high				
268	PD-15				50
269	PD-18				50*
270	PD-13				50*
271	PD-22				50*
272	PD-25				50*
273					
274	High				
275	PD-28				50*
276	PD-35				50*
277	PD-44				50*

Urban High

PD-60	30*
PD-68	30*
PD-75	30*
PD-88	30*
PD-100	30*

* Green area may be reduced to 35 percent for “Medium High” and “High” densities and to 20 percent for “Urban High” densities to allow the construction of all workforce housing units on site.

Sec. 7. DIVISION 59-C-8 is amended as follows:

DIVISION 59-C-8. TRANSIT STATION DEVELOPMENT AREA ZONES.

* * *

59-C-8.4. Development standards.

	TS-R	TS-M
59-C-8.42. Density of Development.		
The density of development must not exceed any of the following:		
* * *		
(c) The density of development must not exceed the FAR or the dwelling units per acre allowed by the zone, except that the maximum density permitted may be increased to accommodate the construction of moderately priced dwelling units [in accordance with] <u>as required by Chapter 25A and the construction of workforce housing units as required by Section 59-A-6.18 and Chapter 25B.</u> The maximum number of dwelling units or residential FAR may be increased [in proportion to] <u>as needed for any MPDU density bonus and any workforce housing units provided on-site.</u> The provision of MPDUs <u>or workforce housing units</u> does not authorize a reduction in any public facility and amenity or active or passive recreation space recommended in a master or sector plan.		

Sec. 8. Division 59-C-10 is amended as follows:

DIVISION 59-C-10 RMX Zones –Residential Mixed Use Development

* * *

59-C10.3.7. Maximum Residential Density

- (a) The maximum residential density in an RMX zone must not exceed 30 dwelling units per acre for residential areas shown on the project plan. The density approved by the Planning Board must not exceed the density shown on the approved and adopted master plan which must be no greater than the density permitted by the RMX zone. Where residential development is proposed to be located within a proposed commercial area, the maximum residential density for such areas must not exceed 40 dwelling units per acre. Any residential development must include Moderately Priced Dwelling units (MPDUs) as required by Chapter 25A and workforce housing units as required by Section 59-A-6.18 and Chapter 25B.
- (b) The density of residential development [should] must comply [be compatible] with the density recommended on the approved and adopted master plan; [except that the number of units permitted may be increased by a number equal to the number of moderately priced dwelling units included in the development plan in accordance with Chapter 25A of this Code, as amended, provided that the total increase does not exceed 22 percent of the total number of units recommended on the master plan].however, the number of residential dwellings must be increased to accommodate the construction of Moderately Priced Dwelling units (MPDUs) as required by Chapter 25A and the construction of workforce housing units as required by Section 59-A-6.18 and Chapter 25B.

Sec. 9. Division 59-C-13 is amended as follows:

DIVISION 59-C-13. TRANSIT ORIENTED, MIXED-USE ZONE (TOMX 2.0).

* * *

59-C-13.2. Provisions of the Transit Oriented, Mixed Use Zones.

59-C-13.21. Description, purpose, intent and general requirements.

* * *

59-C-13.215. Methods of development and approval procedures.

* * *

(b) **Optional Method of Development:** The Optional Method of Development promotes additional densities, and supports innovative design and building technologies to create a pedestrian-oriented and mixed-use development pattern. Approval of the Optional Method of Development is dependent on providing required public amenities and facilities. The public facilities and amenities are intended to support the additional densities permitted under the Optional Method of Development. The procedure for the approval of the Optional Method of Development is set forth in Section 59-D-2. Site plans must be approved in accordance with Section 59-D-3. If residential uses are included in a development, Moderately Priced Dwelling Units must be provided [in accordance with] as required by Chapter 25A and workforce housing units must be provided as required by Section 59-A-6.18 and Chapter 25B. The maximum dwelling unit density or residential FAR may be increased in proportion to any MPDU density bonus provided on-site [; however, notwithstanding any provision to the contrary in Section 59-A-6.18, the Planning Board must not approve an increase in any residential FAR or maximum building height established in the TOMX2 zone or under any applicable master

or sector plan for any building in the TOMX2 zone to accommodate
the construction of workforce housing units]].


* * *

**Sec. 10. [[Preliminary subdivision plan approved before (ZTA Effective
Date)]] Applicability.**

The requirement to construct workforce housing under Chapter 25A and
Section 59-A-6.18 does not apply to any development for which an
application for a local map amendment, development plan, project plan,
preliminary subdivision plan, site plan [[approved by the Planning Board]]
filed before December 1, 2006.

Sec. 11. Effective date. This ordinance becomes effective [[20 days after
the date of Council adoption]] December 1, 2006.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council